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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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09/294,073 04/19/99 OH

S 3598-6

QM32/0313

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EXAMINER

WILSON, J

ART UNIT

PAPER NUMBER

3732

DATE MAILED:

03/13/00

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

Office Action Summary

Application No.
09/294,073

Applicant(s)

Oh

Examiner

John J. Wilson

Group Art Unit

3732



☒ Responsive to communication(s) filed on Apr 19, 1999

☐ This action is **FINAL**.

☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire THREE month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

Disposition of Claims

☒ Claim(s) 1-6 is/are pending in the application.

Of the above, claim(s) _____ is/are withdrawn from consideration.

☐ Claim(s) _____ is/are allowed.

☒ Claim(s) 1-6 is/are rejected.

☐ Claim(s) _____ is/are objected to.

☐ Claims _____ are subject to restriction or election requirement.

Application Papers

☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.

☐ The drawing(s) filed on _____ is/are objected to by the Examiner.

☐ The proposed drawing correction, filed on _____ is ☐ approved ☐ disapproved.

☐ The specification is objected to by the Examiner.

☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

☒ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

☒ All ☐ Some* ☐ None of the CERTIFIED copies of the priority documents have been

☒ received.

☐ received in Application No. (Series Code/Serial Number) _____.

☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

*Certified copies not received: _____

☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

☒ Notice of References Cited, PTO-892

☒ Information Disclosure Statement(s), PTO-1449, Paper No(s). 2

☐ Interview Summary, PTO-413

☐ Notice of Draftsperson's Patent Drawing Review, PTO-948

☐ Notice of Informal Patent Application, PTO-152

--- SEE OFFICE ACTION ON THE FOLLOWING PAGES ---

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DETAILED ACTION

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1, 3 and 6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Malmin (702) in view of Harrison III. Malmin shows a gutta percha point, Fig. 9, however, does not show a scale. Malmin also shows a gutta percha delivery tool 240, Fig. 11, having a scale. Malmin does not show combining these two embodiments. Harrison teaches an absorbent point that solves the problem of determining the depth that the point is inserted into a root canal by placing a scale directly on the point. It would be obvious to one of ordinary skill in the art to modify Malmin to include combining the scale taught by Malmin in Fig. 11 with the gutta percha point taught by Malmin in Fig. 9 as shown by Harrison in order to allow the user to determine the depth without using an additional tool. As to claim 3, see column 4, line 20 of Harrison. As to claim 6, see column 4, lines 26 and 42 of Harrison.

Claim 2 is rejected under 35 U.S.C. 103(a) as being unpatentable over Malmin (702) in view of Harrison III as applied to claim 1 above, and further in view of Johnson. The above

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combination does not show embossed marks. Johnson teaches embossed marks 20. It would be further obvious to one of ordinary skill in the art to modify the above combination to include embossed marks as shown by Johnson in order to make use of well known ways in the art to make marks that can be seen clearly.

Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over Malmin (702) in view of Harrison III and Johnson as applied to claim 2 above, and further in view of Cohen. The above combination does not show using color marks. Cohen teaches using color. It would be further obvious to one of ordinary skill in the art to modify the above combination to include color marks as shown by Cohen in order to make use of well known ways in the art to make marks that can be seen clearly.

Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Malmin (702) in view of Harrison III as applied to claim 3 above, and further in view of Cohen. The above combination does not show using color marks. Cohen teaches using color. It would be further obvious to one of ordinary skill in the art to modify the above combination to include color marks as shown by Cohen in order to make use of well known ways in the art to make marks that can be seen clearly.

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Drawings

The drawings filed April 19, 1999 have been approved.


Priority

Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d), which papers have been placed of record in the file.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Malmin (791) shows details of the scale referred to in Malmin (702). Siegel shows a cone.

Any inquiry concerning this communication should be directed to John Wilson at telephone number (703) 308-2699.



**John J. Wilson
Primary Examiner
Art Unit 3732**

jjw
March 7, 2000
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